



www.GeorgeWBush.com

Post Office Box 10648
Arlington, VA 22210
Phone. 703-647-2700
Fax. 703-647-2993

August 3, 2004

Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 22210

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COMMISSION
OFFICE OF GENERAL
COUNSEL
2004 AUG 16 PM 12:28

Dear Mr. Jordan:

Bush-Cheney '04, Inc., David Herndon and Steve Schmidt have received the complaint designated as MUR 5475 and hereby provide this response on behalf of these three parties. Also included herein are Designation of Counsel forms for both David Herndon and Steve Schmidt.

This complaint is based on speculation, hearsay and conjecture. There is no evidence in news articles attached to the complaint that any Bush-Cheney '04, Inc. ("BC '04") resources were used to support Ralph Nader's candidacy for President.

A reading of the news articles does not lead to or lend any support to what has been alleged in Count III. The media account attached to Count III reports that a message was left on an individual's answering machine leaving a return number that turned out to belong to the state office of BC '04. There is no suggestion or mention in the article that the message indicated that the call was made on behalf of BC '04 or was delivered using any resources of BC '04.

The complaint then extrapolates on a response to a press inquiry provided by Steve Schmidt, a spokesperson based in Arlington, VA. Mr. Schmidt denied that any paid BC '04 staff was involved in calls to encourage individuals to support Mr. Nader's candidacy or that the effort was a BC '04 activity. He acknowledged, in response to a specific press inquiry into whether such a call could have been made, the possibility existed that a volunteer could have made an unauthorized phone call without the knowledge of paid campaign staff. The complaint then takes this denial, twists it beyond the bounds of rational analysis, and uses Mr. Schmidt's denial of campaign involvement in Mr. Nader's candidacy to suggest that BC '04 was involved in a massive effort to assist Mr. Nader. Nothing in the factual record suggests that this occurred.

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Because of the complete lack of factual basis for the allegations contained in the complaint, BC '04, David Herndon and Steve Schmidt believe that the Commission should dismiss the complaint and take no further action in this matter.

Please do not hesitate to contact me at 703-647-2940 (telephone) or 703-647-2997 (fax) with questions or concerns.

Sincerely

A handwritten signature in black ink, appearing to read 'T. Josefiak', written over the printed name.

Thomas Josefiak
General Counsel

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STATEMENT OF DESIGNATION OF COUNSEL

Please use one form for each respondent

MUR: 5475
NAME OF COUNSEL: Thomas J. Josefiak
FIRM: N/A
ADDRESS: Post Office Box 10648
Arlington, VA 22210
TELEPHONE: ⁷⁰³ (202) 647-2940
FAX: ⁷⁰³ (202) 647-2997

The above-named individual us hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Steve Schmidt

Print Name

7-21-04

Date

[Signature]

Signature

Spokesman

Title

Respondent's Name: Bush-Cheney '04, Inc.

Address: Post Office Box 10648
Arlington, VA 22210

Telephone Home: (703) 647-2940

Business: (703) 647-2940

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Statement of Designation of Counsel

Please use one form for each respondent

MUR: 5475

Name of Counsel: Thomas J. Josefiak

Firm: n/a

Address: Post Office Box 10648
Arlington, VA 22210

Telephone: ⁷⁰³ (202) 647-2940

Fax: ⁷⁰³ (202) 647-2997

The above-named individual us hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

David Herndon

Print Name

7/28/04
Date


Signature

Treasurer
Title

Respondent's Name: Bush-Cheney '04, Inc.

Address: Post Office Box 10648
Arlington, VA 22210

Telephone Home: (703) 647-2940

Business: (703) 647-2940

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